IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH: NAGPUR
CRIMINAL APPLICATION NO. 2742 OF 2006

Vikas Eknath Theng and 2 others
Versus
The State of Maharashtra

CORAM: S. R. DONGAONKAR, J.
DATE: 9.10.2006

1) Heard Mr. S.V.Sirpurkar, learned counsel for the applicant and Mr. Ahirkar, learned A.P.P. for non-applicant State.

2) This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicants are arrested for the offence punishable under Sections 307 and 498-A in Crime No. 87/2006. It is stated that the charge sheet has been filed and the offences alleged against the applicants are the same.

3) It is the case of the prosecution that these accused are responsible for treating the wife of applicant no.1 – Vikas with cruelty and also had attempted to kill her.

4) As regards the material allegations against

the applicant, it may be seen that it is alleged that applicant no. 2 & 3 had tried to administer the poison to the wife of applicant no. 1 – Manisha on 5.5.2006. It also appears from the record that in Dying Declaration (now rendered as statement) which is recorded at about 5.16 hours in the evening on 5.5.2006, she has implicated her mother-in-law and father-in-law for administering poison i.e. applicant nos. 2 & 3. She did not, however, implicated the husband i.e. applicant no.1.

5) The details of alleged cruelty, and implication of applicant no. 1 can be found only in her supplementary statement which was recorded after a considerable time on 12.05.2006.

6) In these circumstances, it is clear that there is improvement in implicating the applicant no.1. At any rate, from the evidence which is apparent on record, the allegations against the applicant no. 1 can be only of under Section 498-A that too owing from her supplementary statement dated 12.5.2006. In these circumstances, applicant no. 1 would be entitled for bail.

7) The learned counsel for the applicant does not press for bail of applicant no. 2 & 3 at this stage. Hence the following order.

8) The applicant No. 1 be released on bail on furnishing surety and P.R. Bond of Rs. 15,000/-. Bail in lower Court.

9) The application as regards applicant no. 2 & 3 is allowed to be withdrawn with liberty to file fresh application, if necessary, if the trial does not begin within a period of one month from today.

10) It is made clear that the above observations are with prima facie view of the matter and that shall not influence in any way to the learned Trial Judge while deciding the matter on merits.

Hamdast allowed.

JUDGE

Rvjalit